

ORDINANCE NO. 28657

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY GENERALLY SITUATED ON BOTH SIDES OF BERRYESSA ROAD, WEST OF UNION PACIFIC RAILROAD TRACKS AND EAST OF COYOTE CREEK, FROM A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, the area encompassed by the subject rezoning was the subject of an Addendum to a Final Environmental Impact Report for the San Jose Flea Market General Plan Amendment and Planned Development Rezoning Project, and related Resolution No. 73956, and found to be in conformance with the California Environmental Quality Act of 1970 (CEQA), as amended, under File No. PDC09-006, and no protest, challenge or appeal has been filed with City in connection with said analyses; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José, acting as a lead agency under CEQA, has considered and approves said Addendum in connection with the proposed rezoning prior to taking any approval actions on this rezoning project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A(PD) Planned Development Zoning. The base zoning district of the subject property shall be the A-Agricultural Zoning District. The Planned Development zoning of the subject property shall be that development plan for the subject property entitled, "A Mixed Use Transit Village on the San Jose Flea Market , " **last revised June 30, 2009.**

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto

and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC09-006 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 20th day of October, 2009, by the following vote:

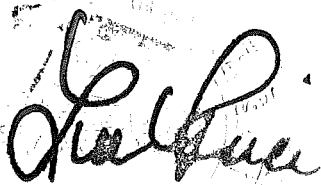
AYES: CAMPOS, CHU, HERRERA, KALRA, LICCARDO,
NGUYEN, PYLE; REED.

NOES: CHIRCO, OLIVERIO.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

ATTEST:



LEE PRICE, MMC
City Clerk



CHUCK REED
Mayor

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

Beginning at 6" X 6" corner fence post marked BB standing at the Southernmost corner of Borchers's land in the Northern line of lands of Geremia Fattalini, et al, formerly owned by W.F. Babcock in 500 Acre Lot 28, former City lands of San Jose; thence along the Southeastern line of lands of Borchers and Socklin North 46° 17' East 10.32 chains to a stake marked B C X Standing in fence corner and at the common corner for lands of C. Geissman and Geremia Fattalini, et al, in the Southeasterly line of Mrs. Stocklin's land; thence along fence line between lands of said G. Fattalini, et al, and C. Geissman, South 37° 56' East 9.96 chains to a stake marked B 5 being the common corner for lands of King and G. Fattalini, et al, in the Southwestern line of said Geissman's land; thence along the line between the lands of said Fattalini, et al, on the North and the lands of King, McKiernan and R. Summers on the South, South 48° West 13.24 chains to a stake marked J P 2 standing at the Northernmost corner of 5.32 acres deeded by J.P. Hall to Manuel A. Vierra, by Deed dated of October 13, 1868, being also the Westernmost corner of R. Summers land; thence along the line between the lands of said Summers and G. Fattalini, et al, South 40° 20' East 8.84 chains to a stake marked J P 1 standing at the Easternmost corner of the above mentioned 5.32 acre tract, formerly owned by M.A. Vierra and in the center of Mabury Road; and thence along the center of Mabury Road being also the line between 500 acre Lots 27 and 28, South 50° 30' West 6.24 chains to the center of Coyote River and the Western line of said above mentioned 5.32 acre tract; thence along the center of Coyote River with the following courses and distances; North 38° 35' West 4.31 chains, North 41° 30' West 4.20 chains to a stake marked B F and H 2 standing in present channel of Coyote River and in the Eastern line of 10.23 acre tract in 500 acre Lot 28, sold by Jacob Heft to Edwards and Dudley by Deed dated May 8, 1874; and thence along the Eastern line of said 10.23 acre lot or tract, North 44 1/4° West 9.35 1/2 chains to a stake marked B 3; and thence leaving said Coyote channel and Eastern line of said 10.23 acre tract, and running North 46° 17' East 10.15 chains to the point of beginning.

Being part of 500 acre Lot No. 28 of former Pueblo of San Jose, courses true. Variation 16 1/2° East.

Excepting therefrom so much thereof as conveyed by Rolando Nicora and Clementine Nicora, his wife, to the Western Pacific Railroad Company, a corporation, by deed dated May 2, 1921, and recorded July 16, 1921, in Book 536 of Deeds, page 487, described as follows:

A strip of land 60 feet in width lying 30 feet on each side of, at right angles to and parallel with the located center line of the Western Pacific Railroad Company's branch line of railroad, from Niles or near Niles in Alameda County to San Jose, as the same is staked out and located across the land conveyed to Rolando Nicora, by Giovanni Nobile by Deed recorded May 31, 1892, in Book 147 of Deeds, page 420.

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Beginning at a point in the property line between the lands now or formerly of Rolando Nicora and C.A. Borchers, said beginning point being South 46° 07' West 256.39 feet along said property line from a stake marked B.G. standing at the Northeasterly corner of said land or Rolando Nicora; thence South 14° 58' East 732.25 feet along the located center line of the Western Pacific Railroad Company, to a point in the property line between the lands now or formerly of Rolando Nicora and Cesare and Adolfo Delgrande, said point being South 47° 40' West 564.47 feet from a stake marked B 5 standing at the most Easterly corner of said land conveyed to Rolando Nicora

Excepting therefrom all of that property above described lying within the bounds of Parcels A, B, and C, as shown upon that parcel map filed for record September 26, 1984, in Book 534, at Pages 36 and 37, Official Records

PARCEL TWO:

All that certain real property situate in the County of Santa Clara, State of California, described as follows:

Beginning at a stake marked "JP1" in the center of Mabury Road said stake being the Southwesterly corner of that certain 4.18 acre tract of land conveyed to the Standard Realty and Development Company, by Joseph Lavanino, et ux, by Deed dated October 6, 1920, Records of Santa Clara County, said stake also standing on the boundary line between 500 acre lots 27 and 28 of the Pueblo lands of the City of San Jose; running thence North 50° 46' East along the center of said road and boundary line a distance of 13.99 feet to point, which point is 30 feet, distant at right angles Southwesterly from the located center line of the Western Pacific Railroad Company's branch line of railroad as the same is staked out and located across the said tract of land conveyed by Joseph Lavagnino, et ux, to the Standard Realty and Development Company; thence North 14° 58' West parallel to said located center line a distance of 656.41 feet to a point in the Northerly boundary line of the said tract of land deeded by Lavagnino, et ux, to the Standard Realty and Development Company; thence South 47° 40' West 293.43 feet, along said Northerly boundary line of said tract of land to a stake marked "JP 2"; thence South 40° 12' East 582.60 feet, along the Western boundary of said tract of land deeded by Lavagnino, et ux, to the Standard Realty and Development Company, to the point of beginning.

Excepting therefrom Parcels One and Two above all those parcels of land described as Parcels 17, 25 and 27, as shown on a record of survey recorded in Book 170 of Maps, pages 11 and 12, in the Office of the County Recorder of Santa Clara County.

Also excepting therefrom Parcels One and Two above described all that certain property granted to the County of Santa Clara by deed recorded September 30, 1980 in Book F 615, Page 574, Official Records, and being more particularly described as follows:

PARCEL A

Beginning at the most Easterly corner of that certain 2.06 acre parcel of land described as Parcel Two in the Judgment of Final Distribution on Waiver of Accounting filed for record in Book C 189 of Official Records, at page 360, Santa Clara County Records, said point of beginning also lying on the centerline of Mabury Road; thence leaving said point of beginning along the general Southeasterly line of said parcel and the Southeasterly line of that certain 25.32 acre parcel of land as described as Parcel One in the hereinabove mentioned Judgment of Final Distribution of Waiver of Accounting and said Southeasterly lines being the centerline of Mabury Road

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South 50° 53' 44" West 136.39 feet and South 50° 10' 41" West 281.10 feet to the most Southerly corner of said Parcel One; thence along the Southwesterly line of said Parcel One North 38° 18' 27" West 25.01 feet to point on a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southeasterly line of the 25.32 acre parcel; thence leaving said Southwesterly line of Parcel One along said parallel line North 50° 10' 41" East 280.58 feet to an angle point in said parallel line; thence continuing along last described parallel line and along a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southwesterly line of the 2.06 acre parcel North 50° 53' 44" East 147.81 feet to a point on the Northeasterly line of said Parcel Two; thence leaving last described parallel line along said Northeasterly line of Parcel Two South 14° 52' 20" East 27.42 feet to the point of beginning.

PARCEL B:

Beginning at a point on the Southwesterly line of the hereinabove mentioned Parcel One distant thereon North 38° 18' 27" West 25.01 feet from the most Southerly corner of said Parcel One; thence leaving said point of beginning along said Southwesterly line North 38° 18' 27" West 8.01 feet to a point on a line parallel with and distant 33.00 feet Northwesterly measured at right angles from the Southeasterly line of said Parcel One; thence leaving said Southwesterly line along said parallel line North 50° 10' 41" East 86.89 feet; thence leaving said parallel line along a tangent curve to the right with a radius of 1810.00 feet through a central angle of 4° 05' 46" for an arc length of 129.40 feet; thence North 54° 16' 27" East 43.66 feet; thence North 50° 53' 44" East 20.65 feet to a point in a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southeasterly line of Parcel One; thence along said parallel line South 50° 10' 41" West 280.58 feet to the point of beginning.

PARCEL C:

Beginning at a point on the Northeasterly line of the hereinabove mentioned Parcel Two distant thereon North 14° 52' 20" West 27.42 feet from the most Easterly corner of said Parcel Two said point being on a line parallel with and distant 25.00 feet Northwesterly measured at right angles from the general Southeasterly line of said Parcel Two; thence leaving said point of beginning and said Northeasterly line along said parallel line and its Southwesterly prolongation South 50° 53' 44" West 168.46 feet; thence leaving said parallel line South 54° 16' 27" West 43.66 feet; thence along a tangent curve to the left with a radius of 1810.00 feet through a central angle of 1° 45' 50" for an arc length of 55.72 feet; thence North 50° 53' 44" East 269.95 feet to a point on said Northeasterly line of Parcel Two; thence along said Northeasterly line South 14° 52' 20" East 5.48 feet to the point of beginning.

Further excepting therefrom that certain property granted to the City of San Jose, a municipal corporation, by deed recorded March 28, 1984 in Book I 409, Page 343, Official Records, and being more particularly described as follows:

Commencing at the most Easterly corner of that certain 2.06 acre parcel of land described as Parcel Two in the Judgment of Final Distribution on Waiver Accounting filed for record in Book C 189 of Official Records, at Page 360, Santa Clara County Records, said point also lying on the centerline of Mabury Road; thence leaving said point along the Northeasterly line of said Parcel Two North 14° 52' 20" West 27.42 feet to the point of beginning; thence from said point of beginning and along said Northeasterly line North 14° 52' 20" West 21.42 feet; thence South 47° 30' 18" West 205.15 feet to point on a line parallel with and distant 33.00 feet Northwesterly measured at right angles from said centerline of Mabury Road; thence along said parallel line

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South 50° 10' 41" West 145.39 feet to a point of cusp; thence Northeasterly along a tangent curve to the right with a radius of 1,810.00 feet through a central angle of 4° 05' 46" for an arc length of 129.40 feet; thence North 54° 16' 27" East 43.66 feet to point on a line; thence North 50° 53' 44" East 168.46 to the point of beginning and the terminus of this description

And further excepting therefrom all that certain property as granted to the City of San Jose, a municipal corporation by deed recorded December 23, 1986 in Book J 970, Page 1682, Official Records, and being more particularly described as follows:

Commencing at the Easterly corner of that certain 2.06 acre parcel described as Parcel Two in the Judgment of Final Distribution on Waiver of Accounting filed for Record in Book C 189 of Official Records at Page 360, Santa Clara County Records, said point also lying on the centerline of Mabury Road; thence along the Northeasterly line of said Parcel Two North 14° 52' 29" West 48.84 feet to the true point of beginning of this description; thence along said Northeasterly line of said Parcel Two North 14° 52' 20" East, 7.90 feet; thence South 47° 30' 18" West, 84.05 feet; thence South 41° 48' 16" West, 70.47 feet; thence North 47° 30' 18" East, 150.51 feet back to the true point of beginning of this description.

PARCEL THREE:

Rights over Parcels 25 and 27 as shown on Record of Survey recorded in Book 170 of Maps, Pages 10 to 12, inclusive, as reserved in the Deed from Clementina Nicora to Santa Clara County Flood Control and Water District recorded January 29, 1965 in Book 6831 at Page 675, which provides among other things the following:

- A) The Right to Cross said Parcels with irrigation lines, water lines, public street, public utilities, roadways, and with railroad tracks to connect with the tracks now owned by Western Pacific Railroad Company.
- B) The Right to Park Vehicles on and to pave said Parcels.

APN: 254-17-095
ARB: 254-17-033.01

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

All of Parcels 25 and 27, as shown on that Record of Survey filed for record in the office of the Recorder of County of Santa Clara, State of California on November 27, 1963, in Book 170 of Maps, page(s) 10, 11 and 12.

APN: 254-17-034

ARB: 254-17-34

FINANCIAL TITLE COMPANY

28657

Underwritten by First American Title Insurance Company

PRELIMINARY REPORT

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Parcel J, as shown on that certain "Record of Survey" filed for record in the office of the Recorder of the County of Santa Clara, State of California on February 17, 1969, in Book 249 of Maps, page(s) 1.

Together with an undivided $\frac{1}{3}$ interest in and to a well and pumping plant situated near the Southwesterly corner of that certain 22.63 acre tract of land described in the deed from Maebelle E. Mac Neal to Joseph Gurgio, et al, dated December 1, 1944, recorded December 12, 1944 in Book 1232 of Official Records, page 415, Santa Clara County Records.

Also together with an undivided $\frac{1}{3}$ interest in and to the existing underground water pipe line lying near the Northwesterly line of Berryessa Road and leading in an Easterly direction from said well and pumping plant and to the Southwesterly line of that certain 12.553 acre tract of land described in the deed from Joseph Cancilla and Josephine Cancilla to Joseph Gurgio, dated December 7, 1926, recorded December 7, 1926 in Book 284 of Official Records, page 161, Santa Clara County Records, and also the right of ingress and egress thereto for the purpose of maintaining said water pipe line.

Also together with a right of way 20.00 feet wide for the purpose of ingress and egress leading from said well and pumping plant in a direct line Southeasterly to the Northerly line of Berryessa Road.

APN: 241-03-020

ARB: 241-12-28

FINANCIAL TITLE COMPANY

28657

Underwritten by First American Title Insurance Company

PRELIMINARY REPORT

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Parcel A, as shown on that certain Record of Survey filed for record in the office of the Recorder of the County of Santa Clara, State of California on March 10, 1969, in Book 250 of Maps, page(s) 19.

APN: 241-04-007

ARB: 243-12-020

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Parcel C, as shown on that certain Record of Survey filed for record in the office of the Recorder of the County of Santa Clara, State of California on March 7, 1969, in Book 250 of Maps, page(s) 12.

APN: 241-04-006

ARB: 243-12-016

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Commencing at an iron pipe found in the intersection of the Northeasterly boundary of that certain 14.017 acre Parcel No. 1 shown on the Record of Survey Map recorded December 9, 1936 in Volume 2 of Maps, page 13, Santa Clara County Records, with the Westerly line of land and right of way (60 feet wide) of the Western Pacific Railroad Company; thence along said Northeasterly boundary of said Parcel No. 1, and the Northwesternly prolongation thereof N. 43° 00' 00" W., 847.71 feet to the Southerly line Berryessa Road as established by survey of County Surveyor of Santa Clara County, in 1933; thence along said Southerly line of Berryessa Road, on the following courses: Southwesterly on a curve with a radius of 625.00 feet deflecting to the right from a tangent bearing S. 49° 28' 23" W., through a central angle of 10° 24' 37" an arc distance of 113.56 feet; thence S. 59° 53' 00" W. 62.15 feet to the Southeasterly prolongation of the Northeasterly line of that certain parcel described in Deed from William C. Shore, et ux, to Gain B. McNeal, recorded November 9, 1882 in Book 65 of Deeds, page 374, as last said line was retracted by survey of Herrmann in 1936, and shown on Record of Survey Map recorded December 9, 1936 in Book 2 of Maps, page 13, Santa Clara County Records; thence S. 59° 53' 00" W. 47.38 feet to a point of beginning of a curve; thence Southwesterly on a curve with a radius of 1475.00 feet, deflecting to the left from tangency with last said course, through an central angle of 5° 27' 00" an arc distance of 140.30 feet; thence S. 54° 26' 00" W. 313.19 feet; thence Southwesterly on a curve with a radius of 475.00 feet, deflecting to the left from tangency with last said course, through a central angle of 22° 13' 00" an arc distance of 184.18 feet; thence S. 32° 13' 00" W. 122.30 feet; thence Southwesterly on a curve with a radius of 2025.00 feet, deflecting to the right from tangency with last said course, through an central angle of 6° 39' 30", an arc distance of 235.23 feet; thence S. 38° 52' 30" W., 264.63 feet; thence leaving said Southerly line of Berryessa Road S. 38° 47' 25" E. 119.03 feet to that certain parcel conveyed in the Deed to David Levin, et al, recorded December 20, 1955 in Book 3366 of Official Records, page 161; thence North 44° 24' 00" E. (along boundary of Levin's parcel) 39.30 feet; thence (continuing along said Levin's parcel) S. 38° 39' 00" E., 59.91 feet; S. 54° 50' 00" E. 288.42 feet to the Southerly corner of 499.62 feet and S. 45° 35' 00" E. 255.49 feet to the Southerly corner of that certain parcel granted to Central Eureka Mining, by Deed recorded September 15, 1952, Recorder's Serial Number 823347; thence along the boundary of said last mentioned parcel N. 46° 01' 00" E. 1059.87 feet to said Westerly line of land and right of way of the Western Pacific Railroad Company; thence along said Westerly line of the Western Pacific Railroad Company, N. 15° 00' 25" W. 403.91 feet to the point of commencement, and being shown on that certain Record of Survey filed June 21, 1962 in Map Book 148, at page 39, Santa Clara County Records.

EXCEPTING THEREFROM all that portion thereof described as follows:

Commencing at an iron pipe found at the intersection of the Northeasterly boundary of that certain 14.017 acre Parcel No. 1, shown on the Record of Survey Map filed for record in the Office of the Recorder of the County

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of Santa Clara, State of California on December 9, 1936 in Book 2 of Maps, page 13, with the Westerly line of the land and right of way, (60 feet wide), of the Western Pacific Railroad Company; thence along said Northeasterly boundary of said Parcel No. 1, as shown on said Map N. $43^{\circ} 00' 00''$ W. 773.52 feet to a 3/4 inch iron pipe found and the true point of beginning of this description; thence from said true point of beginning, S. $44^{\circ} 24' 00''$ W. 1471.41 feet to the most Westerly corner of that certain parcel of land conveyed in the Deed to David Levin, et al, recorded December 20, 1955 in Book 3366 of Official Records, page 161; thence N. $38^{\circ} 47' 25''$ W. 119.03 feet to a point in the Southeasterly line of Berryessa Road (50 feet wide) as established by Survey of County Survey of Santa Clara County, in 1933; thence along said last named line N. $38^{\circ} 52' 30''$ E. 42.26 feet; thence leaving said line N. $63^{\circ} 07'$ E. 178.59 feet; thence N. $51^{\circ} 55' 00''$ E. 100.90 feet; thence N. $41^{\circ} 05' 00''$ E. 100.00 feet; thence N. $29^{\circ} 49' 00''$ E. 309.50 feet; thence N. $46^{\circ} 45' 00''$ E. 100.00 feet; thence South $83^{\circ} 13' 00''$ E. 68.03 feet; thence N. $36^{\circ} 07' 00''$ E. 37.53 feet; thence N. $42^{\circ} 45' 30''$ W., 17.82 feet; thence N. $45^{\circ} 25' 00''$ E. 197.20 feet; thence N. $68^{\circ} 45' 00''$ E. 80.00 feet; thence N. $44^{\circ} 50' 00''$ E. 300.00 feet to a 2" x 2" hub set in the Northwesterly prolongation of the Northeasterly line of said 14.017 acre Parcel No. 1, hereinafter referred to; thence along said last named prolonged line S. $43^{\circ} 00' 00''$ E. 62.00 feet to the true point of beginning.

APN: 254-17-084

ARB: 254-17-38

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Beginning at the point of intersection of the Southwesterly line of the Western Pacific Railroad Right of Way with the Northeasterly line of that certain 13.645 acre parcel of land as shown on Record of Survey filed June 21, 1962 in Book 148 of Maps, at page 39, Santa Clara County Record; thence along the Northeasterly line of said 13.645 acre parcel North $43^{\circ} 00' 00''$ West 773.52 feet to a point on the Southeasterly line of The former Southern Pacific Company Right of Way; thence along said Right of Way North $44^{\circ} 24' 00''$ East 417.11 feet, more or less, to a point on the Southwesterly line of The Western Pacific Railroad Right of Way; thence along said Southwesterly line South $14^{\circ} 58'$ East 885.00 feet, more or less, to the point of beginning.

APN: 254-17-007
ARB: 254-17-7

LEGAL DESCRIPTION

The land referred to in this Report is described as follows:

All that certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

A parcel of land situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels 6 and 7 and a portion of Parcel 8 as said Parcels are described in deed dated March 30, 1939 from San Jose Railroads to Southern Pacific Railroad Company, recorded April 3, 1939, in Volume 927, Page 162, Official Records of said County, described as follows:

Beginning at the intersection of the Southeasterly line of said Parcel 8 with the Westerly line of land (60 feet wide) of Western Pacific Railroad; thence North 15° 00' 25" West, along said Westerly line, 58.09 feet to the Northwestern line of said Parcel 8; thence South 44° 24' West (shown as South 44° 50' West in said Deed) 447.20 feet to the Northeasterly line of said Parcel 7; thence North 43° 00' West, along said Northeasterly line, 11.95 feet to the Northwestern line of said Parcel 7; thence along said Northwestern line, as follows: South 44° 50' West 300.00 feet, South 68° 45' West, 80.00 feet and South 45° 25' West 197.20 feet (shown as South 45° 25' West 204.0 feet in said deed), to the Southwesterly line of Parcel 7; thence South 42° 45' 30" East shown as South 43° 00' East in said deed, 17.82 feet to the Northwestern line of said Parcel 6; thence along last said Northwestern line, as follows: South 36° 07' West 37.53 feet (shown as South 37° 02' West 73.6 feet in said deed, North 83° 13' West 68.03 feet (shown as North 82° 18' West 45.0 feet in said deed), South 46° 45' West (shown as South 47° 40' West in said deed) 100.00 feet; South 29° 49' West (shown as South 30° 44' West in said deed) 309.50 feet South 41° 05' West (shown as South 42° 00' West in said deed) 100.00 feet, South 51° 55' West, (shown as South 52° 50' West in said deed) 100.90 feet, South 63° 07' West 178.59 feet (shown as South 64° 02' West 185.3 feet in said deed) and South 38° 52' 30' West 42.26 feet (shown as South 44° 50' West 35.0 feet in said deed) to the Southwesterly line of said Parcel 6; thence South 38° 47' 25" East, along last said Southwesterly line 119.03 feet (shown as South 38° 19' East 125 feet in said deed) to the Southwesterly corner of said Parcel 6; thence North 44° 24' East (shown as North 44° 50' East in said deed), along the Southeasterly lines of said Parcels 6, 7 and 8, a distance of 1891.32 feet to the point of beginning, containing an area of 3.41 acres, more or less.

Excepting therefrom that portion of said property lying below a depth of five hundred (500) feet measured vertically from the contour of the surface thereof; provided, however, that said grantor, its successors and assigns, shall not have the right for any and all purposes to enter upon, into or through the surface of the portion of said property lying above 500 feet, measured vertically from the contour of the surface of said property.

APN: 254-17-052 254-17-053
ARB: 254-17-52 and 53